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Attorneys for Plaintiffs

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

AMERICAN WILD HORSE CAMPAIGN and)
KIMBERLEE CURYL,)
Plaintiffs,)
v.)
RYAN ZINKE, Secretary of the Department of)
the Interior, MICHAEL D. NEDD, Acting)
Deputy Director of Operations of Bureau of)
Land Management, and JILL SILVEY, District)
Manager Elko District Office of Bureau of Land)
Management,)
Defendants.)
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No. 3:18-cv-00059-RCJ-VPC
**JOINT MOTION FOR
SCHEDULING ORDER**

Ryan Zinke, in his official capacity as Secretary of the Department of Interior, Michael D. Nedd, in his official capacity as Acting Deputy Director of Operations of the Bureau of Land Management, Jill Silvey, in her official capacity as the Elko District Office Manager, and the

1 United States Bureau of Land Management (“BLM”) (collectively, “Federal Defendants”) and
2 American Wild Horse Campaign and Kimberlee Curyl (collectively, “Plaintiffs”) submit the
3 following proposed schedule for the above-captioned case. The parties have conferred and agree
4 that this is a case for review on the administrative record, and is therefore exempt from the
5 requirements of Federal Rule of Civil Procedure 26. *See* Fed. R. Civ. P. 26(a)(1)(B)(i), (f)(1).

6 Plaintiffs challenge BLM’s December 21, 2017, Decision Record, which stated that there
7 were 9,053 excess wild horses in the Triple B and Antelope Complexes. The proposed action
8 consists of a 10-year gather plan and proposes BLM gather and remove approximately 9,053
9 excess wild horses within the Complexes, implement population control measures to gathered
10 and released mares, and may return some gelded horses to the range to be managed as a non-
11 breeding population. On January 30, 2018, BLM initiated a gather of 1,500 wild horses in the
12 Triple B Complex. The gather ended on February 21, 2018. This was the first gather conducted
13 under the challenged Decision Record. BLM has no additional gathers scheduled and does not
14 currently anticipate that it will be able to conduct any further gathers in the Triple B or Antelope
15 Complexes before the next Fiscal Year (October 1, 2018), unless there is an emergency or public
16 safety issue that arises.

17 On February 26, 2018, the Plaintiffs filed their Complaint (ECF No. 1). Plaintiffs served
18 the United States Attorney for the District of Nevada on March 8, 2018, and therefore Federal
19 Defendants’ Answer to the Complaint is due on or before May 8, 2018. *See* Federal Rule of
20 Civil Procedure 12(a)(2). On April 5, 2018, Federal Defendants mailed Plaintiffs a copy of the
21 final Administrative Record in the related case, *Friends of Animals v. Jill Silvey*, No. 3:18-cv-
22 00043-RCJ-VPC. Because the cases challenge the same agency decision, Federal Defendants’
23 position is that the Administrative Record should be the same for both cases. Plaintiffs,
24 however, assert that because their Complaint raises claims that are not raised in the *Friends of*
25 *Animals* case, additional records may be required for the Administrative Record for the instant
26 case.

The parties are currently conferring to informally resolve disputes regarding the Administrative Record. Accordingly, the parties respectfully request that the Court grant this motion and enter a scheduling order as follows:

A. Administrative Record

- i. Federal Defendants shall file their Answer to the Complaint no later than May 8, 2018.
- ii. Plaintiffs have already notified Federal Defendants with their concerns regarding the sufficiency of the Administrative Record. The parties shall confer to resolve any disputes without court intervention until May 1, 2018.
- iii. If the parties agree regarding the sufficiency of the Administrative Record, Federal Defendants shall file the certified Administrative Record with the Court and serve a copy upon Plaintiff no later than May 8, 2018.
- iv. If the parties cannot resolve all disputes regarding the Administrative Record, Plaintiff shall file any Motion to Supplement the Record no later than May 8, 2018.
- v. Parties shall file any Motion to Amend or Supplement the Pleadings no later than June 1, 2018.

B. Briefing on the Merits

- i. Plaintiff shall file its Opening Brief within 14 days after resolution of any motions regarding the contents of the Administrative Record, as provided in paragraph A(iv). If no motions are filed under paragraph A(iv), Plaintiff's Motion for Summary Judgment shall be filed no later than June 15, 2018.
- ii. Federal Defendants shall file their combined Response to Plaintiff's Motion for Summary Judgment and Cross-Motion for Summary Judgment no later than July 17, 2018.

- iii. Plaintiff shall file its combined Response to Federal Defendants' Cross-Motion and Reply in support of its Motion for Summary Judgment no later than August 3, 2018.
- iv. Federal Defendants shall file their Reply in support of their Cross-Motion for Summary Judgment no later than August 24, 2018.

The parties respectfully request that the Court grant this motion and set the proposed deadlines in the above-captioned case. If the Court determines that a hearing on the Summary Judgment Motions would aid the Court, the parties request that the Court schedule oral argument as expeditiously as possible after briefing has been concluded. It is Plaintiffs' position that in the interest of judicial efficiency and economy, because both cases involve some (but not all) of the same claims, the Court should decide this case and *Friends of Animals v. Jill Silvey*, No. 3:18-cv-00043-RCJ-VPC, following the briefing in this case. Federal Defendants' position is that the Court should resolve the claims in each case as expeditiously as possible after they are ripe for resolution so as to reduce the likelihood of motions for emergency relief being filed.

DATED: April 19, 2018.

Respectfully submitted,

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Acting Assistant Attorney General

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/s/ William N. Lawton

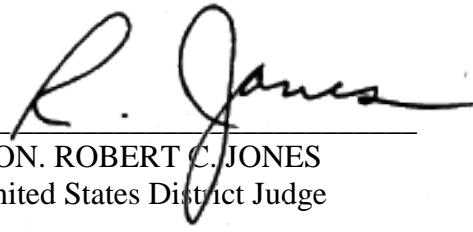
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7 *Attorneys for Plaintiffs*
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10 IT IS SO ORDERED.
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Dated: **April 24, 2018.**


10 HON. ROBERT C. JONES
11 United States District Judge
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CERTIFICATE OF SERVICE

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I hereby certify that on April 19, 2018, I electronically filed the foregoing
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documents with the Clerk of the Court for the District of Nevada via the CM/ECF system, which
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will send notification of such to the attorneys of record.
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7
/s/ Devon L. Flanagan
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